

AE&C Holdings, LLC  
Nalls Development Holdings, LLC  
1180 Bascomb Farm Dr.  
Alpharetta, GA 30009

January 29, 2015

City of Brookhaven  
4362 Peachtree Rd.  
Brookhaven, GA 30319



Attn: Department of Community Development  
Zoning Board of Appeals

Re: Letter of Intent & Application for Variance to R-75 Setback Requirements  
1368 Sylvan Cir., NE, Atlanta, GA 30341

Greetings,

The subject property ("Property" - 1368 Sylvan Cir. NE, Atlanta, GA 30341), zoned R-75 and located within the City of Brookhaven, was purchased as a foreclosure on September 26, 2014. The Property was built in 2008, and during the process, the previous Owner constructed a CMU/brick retaining & privacy wall ("Wall") around the entire back yard ("Yard" – see Exhibit A). We also believe the Wall was constructed with the intent to split the lot, in order to build another residential structure where the Yard exists today, as there is currently a 16' opening facing Cartecay Rd. (assuming for a driveway – see Exhibit B). The current setback and lot coverage requirements would prohibit the splitting of the current lot, and it appears the previous Owner abandoned this objective, as well as the proper completion (as outlined in the first bullet point below) of the Wall. Further, the Wall was constructed in violation of front and side setback requirements, but had a grandfathered exception via the transition of governance from Dekalb County to the City of Brookhaven.

Current building codes do not require a permit to construct retaining walls under 4'; however, the retaining walls have to be constructed in accordance with established setback requirements. Based on the age of the home and recent construction, we were unaware of the setback requirements and the fact the wall had been grandfathered into old statutes; given the safety concerns, proceeded to remove the Wall and later approached by code compliance to bring the Wall into compliance.

The intent of this application is to secure a variance to the 7.5' side, and 30' front (i.e., side of the Yard facing a right-of-way Cartecay Rd.) setback requirements in order to:

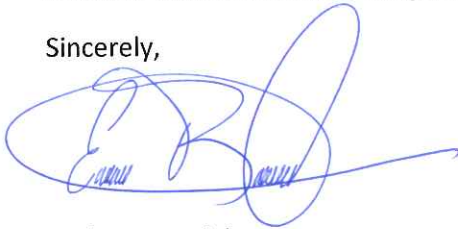
- Rebuild a 35' section of the Wall (Exhibit C) in accordance with the included 4' height Engineered Diagrams (Exhibit E), and in the same character and footing of the current structure. The inability to rebuild this 35' section of the Wall will not only create a hardship due to the inability to maintain grade and enact erosion/sediment controls, but it also creates a safety concern for the neighboring property (1364 Sylvan Cir). Without the proper rebuild (i.e., this section was not grouted, allowing the roots from a large bush to displace the structure) of this 35' section, the structure would have eventually collapsed towards the adjacent wooden fence, into the neighbor's back yard adjacent to a children's play area. This section of the Wall is also

required to maintain the current elevation of the Yard, and without it, there is no way to control erosion of the soil. This 35' section of the Wall is currently 3.75' from the property line, and the closest point of the run of the wall to the property line is 1.31' with a side setback requirement of 7.5'; therefore, we are seeking a variance of 6.19' to bring the entire Wall into compliance. See Exhibit D for Wall measurements – maximum height and distance to property lines.

- Close the 16' opening facing Cartecay Rd. ("Opening"), with the same height (and aesthetic appearance of the existing Wall. The inability to close the Opening will create a hardship in erosion and sediment control, as well as the inability to maintain a level grade in the Yard. The Opening is also out of character with the neighborhood, as there are no properties with a driveway-sized opening extending into the back yard. The Opening, and this section of the Wall, are 1.5' from the property line, and given the Yard is adjacent to Cartecay Rd., it has a setback requirement of 30'. Therefore we are requesting a variance of 28.5' to complete the Wall, and bring it into compliance. The height of the wall is 3' 3" (see Exhibit D).

In closing, we thank you in advance for your consideration of granting the variance to the front and side setback requirements for this Property. Without the variance, the current Wall presents both safety and erosion control hardships, and prevents the full enjoyment of the Property. We only seek to address the issues as stated herein, to bring the structure into compliance.

Sincerely,



Evelyn Bostwick  
Executive Member  
AE&C Holdings, LLC

Phone: 770-710-2814

E-Mail: [abostwick@comcast.net](mailto:abostwick@comcast.net)